

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	
Communications Policy Act of 1984 as amended)	MB Docket No.05-311
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

**COMMENTS OF:
THE SHERBURNE/WRIGHT COUNTY
CABLE COMMUNICATIONS COMMISSION**

**IN RESPONSE TO FURTHER NOTICE
OF PROPOSED RULEMAKING**

The Sherburne/Wright County Cable Communication Commission (“S/WCCCC”) submits these comments in response to the Further Notice of Proposed Rulemaking, released March 5, 2007, in the above-captioned rulemaking (“Further Notice”).

1. The S/WCCCC is a municipal consortium comprised of the cities of: Big Lake, Buffalo, Cokato, Dassel, Delano, Elk River, Maple Lake, Monticello, Rockford and Watertown, all municipalities under Minnesota law. The S/WCCCC was formed to assist in the administration and enforcement of its members’ cable franchises, and to coordinate the production and delivery of public, educational and governmental (“PEG”) access programming in those communities.

2. There are two (2) franchised cable operators in the S/WCCCC’s jurisdiction. All of the S/WCCCC’s member cities have franchises with incumbent cable operator, CC VIII Operating LLC d/b/a Charter Communications (“Charter”). These

franchises were recently renewed and expire in or about 2020. Additionally, two (2) of the S/WCCCC's member cities have issued competitive franchises. The City of Big Lake issued a franchise to Sherburne Cable-Com, Inc. d/b/a Connections Etc. The City of Maple Lake issued a franchise to Lakedale Telephone Company ("Lakedale"). Lakedale is certified as an open video system operator in Maple Lake.

3. In the Order released on March 5, 2007 ("Order") with the Further Notice, the Commission concludes (at ¶ 52) that the current operation of the franchising process deters, delays or prevents potential cable competitors from entering the video market. However, the Commission acknowledges (at ¶ 14) that "the record in this proceeding demonstrates that the franchising process differs significantly from locality to locality." The Commission relies on anecdotes about alleged problems in some (mostly unidentified) municipalities to reach the counter-intuitive conclusion that municipalities are deterring cable competition. The record simply does not support the weight of the Commission's heavy-handed decision.

The S/WCCCC's member cities are pro-competition and have acted accordingly in all interactions with potential cable competitors. The S/WCCCC's member cities have not prevented or delayed franchising of potential cable competitors. No party has, or accurately could, claim to the contrary.

4. The S/WCCCC specifically opposes the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the Order should apply to incumbent cable operators at the time of franchise renewal. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1). By its terms, the "unreasonable refusal" provisions of Section 621(a)(1) apply to "additional competitive franchise[s],"

not to incumbent cable operators. Accordingly, the Order is aimed specifically and entirely at “facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment” (Order at ¶ 1).

Incumbent cable operators are already in the market. Re-writing federal law to change the franchise renewal process will not facilitate or expedite competition. Thus, there is no basis under Section 621(a)(1) to extend the Order to renewal of incumbent franchises.

Further, the Order’s rulings violate the Cable Act’s goal of ensuring that a cable system is “responsive to the needs and interests of the local community,” 47 U.S.C. § 521(2). Most notably, Congress has mandated that an incumbent cable operator’s future franchise terms and conditions be established pursuant to the franchise renewal provisions of Section 626 (47 U.S.C. § 546). These statutory renewal requirements focus on consideration of the “community’s cable-related needs and interests.” The Commission has not been delegated authority to evaluate individual community interests and pre-determine the terms and conditions that can be negotiated to address those interests. Even if the Commission were to be given such authority, this expedited and badly flawed rulemaking proceeding could not produce an adequate record for evaluating such interests.

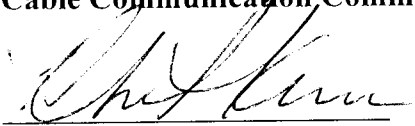
5. The S/WCCCC supports and adopts the comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, the Alliance

for Community Media, and the Alliance for Communications Democracy, filed in response to the Further Notice.

Dated: April 20, 2007

Respectfully submitted,

**Sherburne/Wright County
Cable Communication Commission**

A handwritten signature in cursive script, appearing to read "Chris Kline", is written over a horizontal line.

Its Chair